



## Louisiana Public Defender Board Report of the State Public Defender

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To: The Board  
From: Jean M. Faria  
Date: April 1, 2011

### **BUDGET DIVISION**

The Budget Division is continuously working with the districts that are in danger of failing due to inadequate funds. The only funds distributed were those approved at the last Board meeting. Emergency funding requests continue to come in and the available money will be reduced to \$349,504 if funding requests are approved as submitted.

The Budget Division performed two site visits which were in the 1<sup>st</sup> and 25<sup>th</sup> districts. In the 1<sup>st</sup> District the Caddo Parish Commission handles the receipt and distribution of the money for the district. A former employee of the Commission placed money that should have gone to another entity in the 1<sup>st</sup> District's account for over a year. When this money was removed from their account, it created a shortfall in the current fiscal year. The 1<sup>st</sup> District PDO is requesting an additional \$116,000 to cover the shortfall. District 25 was unable to collect all of the information needed at the time of the visit due to the financial personnel being absent. Additional information was received the week of March 28 and is currently under review.

The Budget Division is working on a revised monthly reporting form in conjunction with other divisions to improve accuracy of the information received from the districts.

### **CAPITAL DIVISION**

The Capital Division continues the process of re-certifying all attorneys who are appointed to represent indigent defendants in capital cases. The 115 applications received to date have been screened to determine that applicants have the required experience for the respective levels of certification. The division is in the process of devising a protocol for determining that the applicants meet the less quantifiable requirements of expertise and diligence.

John Craft, the Capital Case Coordinator, continues to meet with the heads of offices and units handling capital cases in the districts handling the bulk of capital cases. He remains concerned with identifying and regularizing the processes by which these agencies are assigned to clients. These meetings have enhanced communications between the staff and the agencies providing direct representation. There is still concern about the budgeting process and its effect on level of service and the possibility of reductions in service.

## **COMPLIANCE DIVISION**

On February 25, 2011, Trial Compliance Officer John Di Giulio assisted with the Defender Leadership Training in Baton Rouge.

Mr. Di Giulio also participated in staff's efforts to create a protocol for assessing caseload in the various districts and continues to assist in preparing a procedure for restricting services in the event of caseload crisis.

The Compliance Division has also been actively involved with the Louisiana Sentencing Commission and in preparing for the LSBA's Criminal Justice Summit held March 25, 2011 in Baton Rouge. Trial Compliance Officer Di Giulio also worked with the Criminal Code Committee of the Louisiana State Law Institute in reforming the discovery articles of the Code of Criminal Procedure.

The Trial Compliance Officer has continued to collaborate with the courts and city officials in Orleans Parish to address funding issues within that district. Additionally, he has monitored the mandamus litigation in East Baton Rouge Parish and has enrolled as counsel of record in the *Bice v. LPDB* lawsuit pending in the United States District Court, Eastern District of Louisiana.

On March 23, 2011, Mr. Di Giulio and Deputy Public Defender Julie Kilborn attended the March 23, 2011 LSBA conference, "How to Stop Being a Statistic: Analysis of the New Orleans Criminal Justice System" in New Orleans. On March 29, 2011, Trial Compliance Officer Di Giulio conducted a site visit in the 22<sup>nd</sup> District (St. Tammany and Washington Parishes).

## **INFORMATION TECHNOLOGY & MANAGEMENT DIVISION**

### **Technology Management**

The Office of Information Technology & Management awarded the case management system contract to Justice Works on February 25, 2011. The firm did an initial data migration test on March 1 which proved fairly successful and a second data migration test was done on March 24 which was even more successful. The ITM office presently is working with Justice Works on modifying the database functionalities to address the unique characteristics of Louisiana Criminal and Children's Codes. The test installation of the software on staff computers was also completed successfully on March 24. Currently, small-group, on-site training sessions for every district's data-entry point-person have been scheduled from late March through mid-April in New Orleans, Lafayette, Baton Rouge, Ruston and Alexandria. The first three were conducted this week and were very well-received. After the final training in Alexandria on April 14th, several webinars will be conducted in April and May with each district's newly trained data-entry point-person serving as the on-site facilitator. These webinars will also be recorded for viewing by anyone who cannot attend the webinars. When the new database is deployed in June, a smooth transition is expected.

Because much of the staff's current equipment and software was inherited from LPDB's predecessor board, LIDAB, the office conducted an inventory of the ages of equipment and the versions of software currently in use. Consequently, the ITM office is in the process of researching an upgrade of the LPDB staff telephone system, has ordered replacements for some of the older computers (more than four years old) and purchased software for staff not currently

operating in MSWord 2007 or newer versions. The office also purchased graphics editing software so that LPDB staff can produce the e-newsletter in-house and avoid the need to subcontract this work, realizing cost-savings.

## **Information Management**

The office staff conducted analyses on projected shortfall dates for all districts extending out to FY14 which helped identify those districts likely to become insolvent before or shortly after the end of the current fiscal year in order to solicit Emergency Funding Requests where necessary. In collaboration with the Budget Office, the ITM Office provided analyses on amounts of funding needed by those districts currently in shortfall or which will experience shortfall before August 1, 2011, when new DAF monies should be received by the districts.

Also, the ITM office compiled a comparative list of each of the chief district defenders' salaries, experience, and caseloads and current salaries still fall within the prescribed salary ranges developed last year. Average line attorney salaries were also calculated in anticipation of the calculations needed for the FY12 DAF Formula Disbursements. The office amended the LPDB 2010 Annual Report to include revised year-end financial reports from EBR (District 19) and Orleans (District 41) that showed a change in local revenue. This highlighted the need for a revision of the district monthly financial reporting form which is presently underway. This draft revision of the monthly district financial reporting form would tentatively include line items for every court in each district in order to identify which courts are *remitting* fees. In order to do this, the ITM Office conducted a survey of each district to gather a reliable, comprehensive list of every division or section in every district in the State which will then be included individually on each district's customized financial reporting form.

## **JUVENILE DIVISION**

Since the last Board meeting, juvenile staff conducted site visits to the following districts in conjunction with the Louisiana Justice Coalition Extra Legal Needs Assessment: the 16<sup>th</sup> Judicial District on March 3, the 9<sup>th</sup> Judicial District on March 23, and the 30<sup>th</sup> Judicial District on March 22, 2011.

Staff also participated in the following: Children's Code Committee meeting on February 25, LSBA Children's Law Committee meeting on March 16, CARE on March 11, Center for Excellence meeting on February 28, and JJIC meeting on February 21, 2011. Staff also met with the Office of Juvenile Justice to discuss post-disposition representation and attended a meeting describing the state's Coordinated System of Care for juveniles, to be rolled out in the coming months. Division staff participated in the District Defender Leadership Training on February 25, 2011.

Juvenile Division Staff created a report on progress in the state's Models for Change sites, compiled information on the Missouri Model for the Missouri Model Task Force, drafted interview forms for juvenile clients, and conducted research on right to counsel laws in Louisiana. Staff contributed to the creation of an LPDB collateral consequences resource. Staff also wrote articles for the e-newsletter and moderated the juvenile listserv.

The Juvenile Defender Advisory Council was nominated for the LSBA Children's Law Award by Board Member Lucy McGough.

## **SPECIAL PROJECTS**

Since the last meeting of the Board of Directors for LPDB, the Special Projects Advisor has continued to work on the following projects: writing, editing and facilitating the dissemination of the biweekly LPDB e-newsletter to 900+ subscribers; supporting the administration of the CCLI grant; updating the website with relevant announcements, events and information; coordinating with Phyllis Subin to implement the LPDB strategic plan; drafting press statements as appropriate, and; participating in staff meetings and other discussions/projects as a member of the executive staff.

New projects include: coordinating with Director of Training Julie Kilborn, Ernie Lewis, Jeff Sherr and Phyllis Subin to prepare for the LPDB “Retreat” on May 6-7, 2011; administering the ExtraLegal Needs Assessment in Vernon Parish (March 21-24, 2011, a collaborative project with the 30<sup>th</sup> Judicial District Public Defenders’ Office and the Louisiana Justice Coalition); coordinating between LSBA, LPDB and the districts to participate in the LSBA Minority Students Job Fair on March 26, 2011; supporting a special project initiated by a defender in the 19<sup>th</sup> Judicial District Public Defenders’ Office; working with a grants prospect researcher to more effectively identify and apply for grants (completed March 29, 2011), and; supporting the completion and design of a Mental Health Handbook for public defenders representing clients with mental illness (a collaborative project with Louisiana Appleseed and the Louisiana Justice Coalition, for publication May 1, 2011).

The request for technical assistance from the Bronx Defenders was not approved; after consideration and drafting, the grant to the Office of Juvenile Justice and Delinquency Prevention was not submitted. The prospect research (delivered on March 29, 2011) provides 30-35 additional funding opportunities, which will be reviewed and, if possible, pursued. Finally, the 2011 LPDB Summer Internship Program was cancelled due to capacity and resource constraints.

## **TRAINING**

On February 25, 2011 seventy-one District Defenders, Executive Directors and supervisors participated in LPDB’s second annual Defender Leadership Training. The focus of this year’s training was coaching and supervision. Defenders worked through hypothetical supervision problems throughout the day and completed the training by creating 2- and 6-month action steps for implementing new supervision goals in their offices. A draft Attorney Performance Achievement Summary was provided to participants for their use in coaching and supervising their defenders. Four District Defenders and two program office Executive Directors were unable to attend the training; all six are scheduled to attend the make-up session scheduled for April 26<sup>th</sup> at the LPDB office.

Round One of the Mental Health Advocacy training was held on February 28, 2011 in Pineville, Louisiana. This program is co-sponsored by Louisiana Appleseed. Professor Katherine Mattes, Interim Director of the Tulane Law School Criminal Clinic, provided the three-hour training, covering issues involving competency to stand trial and pleas of not guilty by reason of insanity. Round Two of this training is scheduled for May 19, 2011 in Baton Rouge.

A one-day training for CINC parent attorneys is scheduled for April 15, 2011 in Ruston and will be provided again on July 8, 2011 in Gonzales. This training will be an interactive, working

program covering LPDB's recently-promulgated *Trial Court Performance Standards for Attorneys Representing Parents in Child of Need of Care Cases*.

The two trainings on the LPDB *Trial Court Performance Standards* (promulgated April 2009) in that were cancelled in February 2011 because of the winter storm have been re-scheduled for April 20 and 21 in Shreveport and Monroe, respectively.

The Training Division continues to prepare for the Capital Defender Training scheduled for June 6-8, 2011 in Baton Rouge. This is the final training required under the Capital Case Litigation Initiative grant awarded to LPDB by the Department of Justice, Bureau of Justice Assistance. The grant term ends in August 2011.

Additional upcoming trainings being developed by the Training Division for 2011 include: *Investigators Workshop* (July 18-20, 2011); *Defender Training Institute* (Sept. 11-16, 2011), including *DTI Annual Conference* (Sept. 15-16, 2011); *Advanced Capital Training* (Oct. 25-29, 2011); *Legislative Update* (December 16, 2011).

## **STATE PUBLIC DEFENDER**

State Deputy Defender/Director of Juvenile Services Clay Walker tendered his resignation effective April 4, 2011. With his resignation, staff will be focused on the search for his replacement. The position is critical to the success of the Board, its work and the staff. We are working diligently to fill the void created by Clay's departure. He was hired within two weeks of my arrival on staff and it is with deep regret that I accepted his resignation. Everyone on staff wishes him well in his new position as Director of Juvenile Services for Caddo Parish.

The Joint Legislative Committee on the Budget met on March 11, 2010. The Governor's office asked all Agency Heads and Secretaries to attend, which is unusual. The hearing was spirited. We were also present for the initial hearing before House Appropriations on March 22, 2011. The new analyst from House Appropriations staff assigned to us, Daniel Waguespack, did a fine job before the Committee and there were no questions for us. We are listed in the Governor's Budget Request at \$32,806,228, approximately \$550,000 below last year's total means of financing.

The single most pressing issue is how we prepare for the restriction of the delivery of services in those districts which have exhausted their indigent defender fund and can no longer provide representation at current service levels. This is on the Committee and Board agendas and there are no easy answers.

Over the past several months Executive Staff has worked with the Louisiana State Bar Association's Criminal Justice Committee on the 2<sup>nd</sup> Annual Criminal Justice Summit. Under the leadership of Judge William Morvant from the 19<sup>th</sup> Judicial District, the Committee chose, as its summit topic, the crisis in funding the criminal justice system statewide. LPDB staff provided background information on the disparate methods of assessment, collection and remittance of fines, fees, costs and assessments throughout the state and the many problems encountered by district defenders in trying to determine if they are receiving what they are due. The point was to make all criminal justice stakeholders understand the complexity of fines, fees, costs and assessments "system," their importance in funding the entire criminal justice system, and the need for increased transparency, accountability and auditability. The summit ended with

a consensus on proposing legislation regarding the collection of fines, fees and costs through the use of uniform reporting forms which would require Supreme Court oversight and approval.

Executive staff is preparing for a presentation to the Judicial College at its April 8<sup>th</sup> meeting in Lafayette. In addition to the information shared at the LSBA Criminal Justice Summit, we will begin the discussion of partial indigence with the judges.

We are preparing for a third presentation, at the Summer School for Judges in June, where we will discuss determinations of indigency for the appointment of counsel, partial indigence and the effect of a *Bearden v. Georgia* determination of indigence on sentencing.